

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GABRIEL JOSEPH NEVAREZ

Plaintiff,

vs.

No. 18-00313 RB/LF

ADAM RAMERO,

Defendant.

**ORDER DENYING MOTION FOR LEAVE TO PROCEED ON APPEAL
AND 28 U.S.C. § 1915(a)(3) CERTIFICATION**

THIS MATTER is before the Court on Plaintiff Gabriel Joseph Nevarez's Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees (PLRA Form) filed May 22, 2018. (Doc. 13). The Court determines that the appeal is not taken in good faith and denies the Motion for Leave to Proceed.

Nevarez seeks to proceed on appeal without prepayment of fees or costs under 28 U.S.C. § 1915. Section 1915(a)(3) states that "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." For purposes of § 1915(a)(3), a good faith appeal is one that presents a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal. *Carvalho v. Pugh*, 177 F.3d 1177, 1179 (10th Cir. 1999). Nevarez's statement of the issues he intends to raise on appeal is largely incomprehensible. (*See* Doc. 13 at 2.)

The Court dismissed Nevarez's original Complaint on the grounds that the allegations against Defendant Ramero are baseless and the Complaint fails to state any § 1983 claim for relief against Ramero under either the Rule 12(b)(6) or the § 1915(e)(2)(B) standard. (*See* Doc.

5.) Nevarez's incomprehensible allegations in his Motion for Leave to Proceed do not present any reasoned, nonfrivolous argument on the law and facts to support any argument on appeal that the Court's rulings were in error. *Carvalho*, 177 F.3d at 1179. Accordingly, the Court will deny his Application.

Under Fed. R. App. P. 24(a)(4), the Court will direct the Clerk to notify the Court of Appeals of this denial of Nevarez's Motion for Leave to Proceed and certification that the appeal is not taken in good faith. Nevarez is advised that he may file a motion for leave to proceed on appeal *in forma pauperis* with the United States Court of Appeals for the Tenth Circuit within 30 days after service of this Order. Fed. R. App. P. 24(a)(5).

IT IS ORDERED that Plaintiff Gabriel Joseph Nevarez's Motion for Leave to Proceed on Appeal Without Prepayment of Costs or Fees (PLRA Form) filed May 22, 2018 (Doc. 13) is **DENIED**, the Court **CERTIFIES** that the appeal is not taken in good faith, and the Court **DIRECTS** the Clerk to notify the Court of Appeals of this denial and certification.



ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE